

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES MICHAEL CARR,

Plaintiff,

v.

MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:24-cv-00579-HBK

ORDER GRANTING PARTIES'
STIPULATED MOTION TO REMAND
UNDER SENTENCE FOUR OF 42 U.S.C. §
405(g), REVERSING FINAL DECISION AND
REMANDING CASE¹

(Doc. No. 12)

Pending before the Court is the parties' joint motion to remand filed August 21, 2024. (Doc. No. 12). Plaintiff James Michael Carr and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. See *Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under

¹ Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 10).

1 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
2 *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
3 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
4 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
5 resetting the cause for a rehearing.” *Id.* (other citations omitted).

6 The Court grants the parties’ motion to remand under sentence four and reverses the
7 Commissioner’s final decision. As agreed upon by the parties, upon remand, the Commissioner
8 will issue a new decision.

9 Accordingly, it is **ORDERED**:

10 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to
11 remand (Doc. No. 12) and REVERSES the Commissioner’s decision. This case is
12 REMANDED to the Commissioner of Social Security for further proceedings
13 consistent with this Order.

14 2. A motion for attorney fees may be filed within thirty (30) days.

15 3. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close
16 this case.

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18 Dated: August 22, 2024


19 HELENA M. BARCH-KUCHTA
20 UNITED STATES MAGISTRATE JUDGE
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